

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:25-cv-00058-MOC-WCM

CHRISTOPHER JONAS BROOKS,

Plaintiff,

v.

ASHEVILLE DETOX LLC; and
HEALTHCARE ALLIANCE
NORTH AMERICA,

Defendants.

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ORDER

This matter is before the Court following multiple filings by the parties and for case management purposes.

I. Relevant Background

On February 27, 2025, Plaintiff filed his Complaint. Doc. 1.

On May 5, 2025, Defendants filed Defendants' Motions to Dismiss, Answer, and Affirmative Defenses. Doc. 12.

On May 12, 2025, Plaintiff filed Plaintiff's Combined Opposition to Defendants' Motion to Dismiss and Motion to Strike Fourth, Fifth, Sixth, and Seventh Affirmative Defenses. Doc. 13. In that filing, Plaintiff argues that Defendants' motions to dismiss should be denied. He also requests that certain affirmative defenses be stricken, contends that the remaining defenses are

“insufficient,” and requests leave to amend “if the Court identifies any pleading deficiencies.” Id. at 6.

On May 22, 2025, Plaintiff filed a notice indicating that he opted out of this district’s Pro Se Settlement Assistance Program. Doc. 15. A separate notice was then issued directing the parties to conduct an Initial Attorneys’ Conference within 14 days and to file a certificate of the conference within 7 days of the conference.

On May 27, 2025, Plaintiff filed Plaintiff’s Motion to Stay Initial Attorney’s Conference (the “Motion to Stay,” Doc. 16), contending that the conference should be temporarily stayed “pending resolution of a **pending threshold procedural matter.**” Doc. 16 at 1 (emphasis in original).

On May 28, 2025, Plaintiff filed Plaintiff’s Motion for Leave to File Surreply. Doc. 18.

II. Motions Embedded in Other Filings

A. In Defendants’ Filings

The Local Rules of this district state that a motion to dismiss that is made in an answer is deemed to be made merely to preserve the associated issues and will not be addressed by the Court unless a separate motion and supporting brief are filed. LCvR 7.1(c)(1). Consequently, the motions to dismiss contained in Defendants’ Answer are not ripe for consideration.

B. In Plaintiff's Filings

In addition, except for motions made during a hearing or trial, all motions are to be written, filed, and, with certain limited exceptions, supported by briefs that are submitted contemporaneously with the motions. LCvR 7.1(a), (c).

Further, motions are not to be included in responsive briefs. LCvR 7.1 (c)(2).

As Plaintiff's motion to strike and motion for leave to amend are made in the context of his response to Defendants' motions to dismiss, they are procedurally improper.¹

III. Plaintiff's Motion to Stay and Motion for Leave to File Surreply

Plaintiff has not described the "pending threshold procedural matter" to which he is referring, and the undersigned is otherwise not persuaded on the current record that the deadline for the parties to conduct an Initial Attorneys' Conference should be extended.

Finally, in light of the other rulings described above, the surreply Plaintiff proposes to submit is unnecessary.

¹ Plaintiff is also advised that he is responsible for his own filings and that it is not the role of the Court to review Plaintiff's pleadings or provide advice to him if it identifies any deficiencies.

IT IS THEREFORE ORDERED THAT:

1. Defendants' motions to dismiss, which are contained in Defendants' Answer as placeholders as described by the Local Rules, are deemed **UNRIPE FOR DISPOSITION**.
2. Plaintiff's motion to strike and motion for leave to amend, which have been made in the context of Plaintiff's response to Defendants' motions to dismiss, are **DENIED WITHOUT PREJUDICE AS PROCEDURALLY IMPROPER**. Plaintiff is advised that should he wish to renew these motions, any such filings should be made in compliance with the Local Rules of this district, which can be found on the district's website, and the Federal Rules of Civil Procedure.
3. Plaintiff's Motion to Stay Initial Attorney's Conference (Doc. 16) and Plaintiff's Motion for Leave to File Surreply (Doc. 18) are **DENIED**.

Signed: May 28, 2025



W. Carleton Metcalf
United States Magistrate Judge

